

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Norfolk Division

DOUGLAS SCOTT MCBRIDE,

Petitioner,

v.

CHADWICK DOTSON, *Director of
Virginia Department of Corrections*¹,

Defendant.

Case No. 2:23-cv-302

ORDER

Petitioner Douglas Scott McBride seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his 2013 convictions in the Circuit Court for Dinwiddie County, Virginia for rape, indecent liberties with a child, and contributing to the delinquency of a minor. ECF No. 1. Respondent Chadwick Dotson, Director of the Virginia Department of Corrections, moved to dismiss the petition. ECF No. 9. The petitioner opposed the motion. ECF No. 13. Before the Court is an unopposed Report and Recommendation, in which the Honorable Lawrence R. Leonard, United States Magistrate Judge, concluded that the petition is procedurally defaulted, the respondent's motion to dismiss should be granted, and this matter should be dismissed. ECF No. 14.

¹ The proper respondent to a habeas petition is "the person who has custody over the petitioner." *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) (alteration accepted). Chadwick Dotson has been appointed to serve as the Director of the Virginia Department of Corrections, effective September 8, 2023. Accordingly, Chadwick Dotson, Director of the Virginia Department of Corrections, is substituted for the original named defendant, Harold W. Clarke.

Judge Leonard advised the parties of their rights to object to his findings and recommendations and explained that failure to timely object would result in a waiver of appeal from a judgment of this Court based on such findings and recommendations. ECF No. 14 at 20 (citing *Thomas v. Arn*, 474 U.S. 140 (1985); *Carr v. Hutto*, 737 F.2d 433 (4th Cir. 1984); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984)). The time to file an objection has expired, and neither party objected to the Report and Recommendation.

In the absence of a specific written objection, this Court may adopt a Magistrate Judge's recommendations without conducting a *de novo* review, unless the recommendations are clearly erroneous or contrary to law. *See* Fed. R. Civ. P. 72(b)(2); *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.1982) (citations omitted); *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 316 (4th Cir. 2005).

The Court has reviewed Judge Leonard's findings and recommendations and found no clear error. Accordingly, the Report and Recommendation (ECF No. 14) is **ADOPTED**.

The respondent's Motion to Dismiss (ECF No. 9) is **GRANTED**.

This action is **DISMISSED WITH PREJUDICE**.

The Clerk is **DIRECTED** to send a copy of this Order to all counsel of record.

IT IS SO ORDERED.



/s/

Jamar K. Walker
United States District Judge

Norfolk, Virginia
July 17, 2024